

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SUSANNA O. STEPHENS, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF LYDIA PLESKUN	Civil Action No.
Plaintiffs	
v.	
RUSHMORE LOAN MANAGEMENT SERVICES, LLC, U.S. BANK TRUST NAT'L ASS'N, AS TRUSTEE OF DWELLING SERIES IV TRUST	
Defendants	

NOTICE OF REMOVAL

PURSUANT TO 28 U.S.C. §§ 1332, 1441 and 1446, Defendants Rushmore Loan Management LLC (“Rushmore”) and U.S. Bank Trust National Association as Trustee of Dwelling Series IV Trust (“U.S. Bank”) (collectively “Defendants”) hereby remove the above-captioned action, originally filed in the Superior Court of the Commonwealth of Massachusetts, to the U.S. District Court for the District of Massachusetts.

Statement of Grounds for Removal

1. Susanna O. Stephens (“Plaintiff”) is, on information and belief, a Massachusetts citizen with a residential address located in Falmouth, Massachusetts.
2. The Defendant Rushmore is a mortgage servicing company with a principal place of business located in Irvine, California.

3. The Defendant U.S. Bank is a Trust with a principal place of business located in Wilmington, Delaware.

State Court Action

4. The Plaintiff is the heir of Lydia Pleskun and the alleged owner by devise of Property known and numbered 578 Locustfield Road, East Falmouth, Massachusetts (the "Property").

5. On February 17, 2006, the Lydia Pleskun and Rick Herring ("Borrowers") executed a promissory note in favor of Taylor, Bean & Whitaker Corp. (the "Lender") to borrow the sum of \$198,900.00 (the "Note"). As security for their obligation under the Note, the Borrowers granted a mortgage on the Property in favor of Mortgage Electronic Registration Systems, Inc., as nominee for the Lender (the "Mortgage").

6. On January 6, 2020, an assignment was recorded assigning the Mortgage to U.S. Bank.

7. Rushmore is the loan servicer for the Note and Mortgage on behalf of U.S. Bank.

8. On January 18, 2022, the Plaintiff filed a complaint (the "Complaint") with the Barnstable Superior Court (the "State Court Action"), commencing the above-captioned action. A copy of the Complaint is attached hereto as Exhibit 1.

9. To date, the Defendant Rushmore and U.S. Bank have not been able to confirm service of the Complaint.

10. In her Complaint the Plaintiff alleges, inter alia, that the Defendants have failed to comply with applicable state law regarding the foreclosure of the Mortgage and have no ability or right to foreclose.

Jurisdiction

11. This Court has jurisdiction of the above-captioned action pursuant to 28 U.S.C. 1332 as the Plaintiff and all Defendants have diversity of citizenship.

12. Removal is timely as the Defendants Rushmore and U.S. Bank have yet to be served and confirmed that the complaint was filed with the state court on January 18, 2022.¹

13. Pursuant to Local Rule 81.1, Rushmore and U.S. Bank shall file certified or attested-to copies of all records and proceedings in the State Court and a certified or attested-to copy of all docket entries in the State Court with this Court within 30 days after the filing of this notice of removal. Local Rule 81.1.

Respectfully submitted,
Rushmore Loan Management Services, LLC and
U.S. Bank Trust National Association as Trustee of
Dwelling Series IV Trust,
By their attorney,

/s/ John T. Precobb
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DATE: February 10, 2022

¹The Defendants believe that they have a strong argument that since they have not yet been served that they are not required to file their removal within 30 days after confirming when the complaint was filed in the superior court and reserve their right to make this argument.